

erOS the adults only association

Are mainstream sales of vibrators threatening the viability of traditional adult shops?

This paper has been prepared and sent to Eros members to contribute to policy on the future of adult retailing in Australia. Are we at a crisis point which threatens to tip the industry into the red, or is this issue simply a 'red-herring'? Please read the background information and the accompanying arguments and send us your comments within 14 days (we will not publish names or addresses). We will collate them and endeavour to formulate an industry position within a couple of weeks.

Eros' current policy is simply to object to the discrimination that leads to an unlevel playing field, where some shops can sell vibrators and others (adult shops) cannot. Member's responses will determine if this becomes a major campaign agenda.

Send all comments to robbie@eros.org.au with 'Green Paper' in the subject line.

BACKGROUND

Product Timeline

The modern adult shop in Australia evolved from two major events - the legalisation of adult magazines and the development of portable battery-powered vibrators.

In 1971, Liberal Customs Minister, Don Chipp, legalised the commercial import and sale of age-restricted, adult magazines. At the same time, new portable battery-powered vibrators started to be mass-produced. On their own, neither of these products would probably have been enough to support the modern concept of an adult shop but together they brought enough critical sales mass to make specific age-restricted shops profitable.

Hanna Strum was our first commercial adult shop operator and by the late 1970s she had established the first adult shop template.

When X rated videos appeared on the scene in the mid 1980s, they formed the third major product line and even though they were subsequently banned in all states, their continued legality at a federal level was enough to usher in the golden era of adult retailing. Lingerie, novelties and sexual health products were also added to the mix during this period.

The advent of broadband Internet in the mid 2000s, then heralded the beginning of the end of this era, as adult publications first migrated online, quickly followed by video and film. By 2010 this process was almost complete and most adult retailers recorded slumps of up to 80% in their adult media lines. Some shops closed while others barely stayed afloat on toys alone.

Erectile dysfunction products first appeared in adult shops around 2008 and started to help the bottom line during this period

In 2011, social tonics and new psychoactive substances (NPS) started to be sold in a few adult shops but within six months the demand was so great that the take up rate rose to around 70%. For a couple of years these products (like K2 and Kronic) caused an estimated \$700 million to be poured into the industry and replaced the X rated DVD as the new cash cow. Retailers and wholesalers who didn't even sell them gained an advantage as previously cash-strapped companies could now pay their debts and re stock on lines that they had not been able to previously afford.

Subsequent state and federal laws around NPS caused many owners to pull the products from the shelves and others to stop selling them above the counter. Notwithstanding the seemingly harsh laws, 40% of shops still trade in legal social tonics and there are still no convictions for sellers of these products who have pleaded not guilty.

Over the past year, vaporisers have become another source of revenue although governments have also started to move against these products as well.

Current Legal Status

Category 1 and 2 magazines are legal to sell in all states of Australia except Queensland. In Tasmania and South Australia some Cat 2 mags are banned. X rated films are still only legal to be sold in the ACT and NT.

Erectile dysfunction products containing sildenafil, tadalafil etc are illegal to sell outside of chemists without a prescription.

Vibrators are legal to sell in most retail outlets except in NSW where the Crimes Act makes it an offence to sell one from anywhere but an age-restricted premises. In S.A. the law is unclear but it could be the same as NSW in some circumstances. In all states, general obscenity law is enough to make window displays of vibrators in general shopping areas, an offence.

Social tonics containing cannabinoids are banned in all states and some state legislation makes it an offence to sell anything that is marketed as altering consciousness in any 'significant' way. Bongs are illegal to possess and sell in all states in Australia except the ACT and SA. Vaporisers are illegal to sell in WA and are restricted in Qld. If sold with nicotine cartridges, they are illegal to sell in all states and territories.

Product Leakage

X DVDs have been sold from ethnic shops and occasionally through service stations but by far the most ubiquitous outlet has been online. Restricted magazines are legally and illegally sold through service stations, newsagents and tobacconists.

Since 2009 an increasing number of women's fashion stores like *Honey Birdette* and *Bras 'n Things* have started stocking a range of vibrators. Many of these stores are in large shopping complexes. Pharmacy-type stores like Priceline and Chemist Warehouse have also sold vibrators.

In September 2013, Woolworths became the first supermarket chain in Australia to stock a vibrator – a potentially game changing event for adult retailing.

THE MAJOR ISSUES

What is an adult shop in 2014?

Something very different from what it used to be. With X rated DVDs and magazines on the decline and not even stocked in some stores, the product mix has changed significantly. Any or all of these have been or still are being retailed from adult shops:

- X and R 18+ films
- Category 1 and 2 Restricted publications
- Vibrators, dildos and other genital stimulators
- Bongs, hookahs and other smoking paraphenalia
- Vaporisers and cartridges
- Cigarettes and other tobacco products
- Social Tonics including cannabinoids
- Erectile dysfunction products/aphrodesiacs
- Lingerie and fetish clothing
- Fireworks

In Queensland, state laws which prohibit the sale of adult films and magazines means there is no mechanism for the state to declare a premises as 'age restricted' on the basis of adult media.

Game Changing Retail Movements

When Woolworths rolled out the Durex' Vibrating Bullet in September last year, alongside band aids and tampons, many adult shop owners called Eros to say 'enough is enough'. The media immediately contacted Fiona for comment alongside the large morality-based consumer groups. The dual opposition to the move caused a swift response from Woolies and within days the vibrators were pulled off the shelves, along with a number of other adult products that were not even subject to criticism. Not long after this, Fiona received a letter from Ansell who distributed the Durex vibrator, asking her to withdraw her opposition.

It stated that, "Because of the controversy, and opposition from expected sources (eg Church groups) but more importantly unexpected sources (ie. Australian Sex Party), Woolworths also deleted the vibrating condoms, removed condoms from check-out, are getting advice on the necessity to delete massage oils, and are encouraging us to become more conservative with our promotion of products stocked in their stores. Both Ansell and our buyer at Woolworths are concerned that the controversy has had a negative impact on the promotion of safe sex and the 'normalising' of sex-related products.

I don't think you would have anticipated the ramifications of your simple statement."

Well she did actually (it was more that Ansell and Woolies didn't) and she was reacting to the feedback she was getting from Eros members rather than a company that had joined as an associate member some years before and had not bothered to re-join (Ansell). They somehow forgot that Eros is an association that is there to benefit its members and not non-members in the general retail community.

Woolies and Coles are extremely predatory in their activities and have already made major inroads into newsagents, grog shops, small plant shops, bakeries, fast food outlets, video rental companies, insurance products and chemists. Their move into adult products may well have been calculated as part of a bigger plan and there is no guarantee that they will not try it again in the future.

Further down the retail pecking order, a range of smaller chains are moving into previously age-restricted products. Honey Birdette, Chemist Warehouse, Priceline and a few others have or are stocking vibrators and other adult products of varying kinds. Even the chocolate retailer, Darrell Lea, had a go at stocking vibrators a few years ago. These shops are often in shopping malls owned by large public companies like Westfield. This means that there is a large passing trade of families and minors. Substantial numbers of under 18s are in the shops and many purchase vibrators and sex aids.

In December 2013, Knox City Council in Victoria undertook an enquiry into the Honey Birdette store in Knox Westfield. In an unpublished and unpublicised report they concluded that the sale of vibrators in the shop represented a legitimate 'ancillary use' of the premises and they took no action.

Earlier this month, the Naughty But Nice adult store at Keperra in Queensland received a wind up notice from Brisbane City Council (BCC) for being an adult store trading within 100 metres of a childcare centre, against the state planning regulations. The owners immediately withdrew all adult media from the shop and gave BCC an assurance that they would not stock media again and only sell adult toys and novelties in the same way that Honey Birdette was trading not far away. The Council ignored this and moved to wind the shop up. It stopped trading on 26 September with heavy losses. Honey Birdette continued to trade.

At the same time, the right wing religious group, Family First, started to picket the

Honey Birdette shop in Adelaide's Rundle Mall, calling for the explicit vibrator display in the window and in the shop to be removed. The Herald Sun report (<http://www.heraldsun.com.au/news/national/sex-toys-investigation-into-honey-birdette-lingerie-retailer-after-rundle-mall-store-opening/story-fnii5yv7-1227073294041?nk=cfe521d1d7295ecec93102c9dd379bb>) reported that selling vibrators was a breach of the lease purpose clause in Rundle Mall. One argument being put forward by Family First was that underage boys could legally walk into the store and purchase a vibrator, which would almost assuredly be used on or with their underage girlfriend.

For and Against

There are two issues here for Eros Members to decide on. In the first instance, do we feel that this is appropriate and responsible for the community at large and secondly, is it impacting the profitability of age-restricted adult retailers?

The arguments against selling vibrators and adult toys from mainstream premises are varied and include:

- 1) They are traditionally adult products and should stay that way. Adult shops paved the way for profits in this area and they should be able to keep that advantage.
- 2) Adult shops go through extra financial hardship to get an adult store permit and are not allowed in shopping malls and many other areas so they should be allowed to recoup that through adult product sales.
- 3) Mainstream outlets are not skilled in adult retailing and will make mistakes and bad calls around promoting the products. This will in turn lead to morals campaigners targeting the shops and the products themselves and degrade the 'adult' profile.
- 4) In the long term, if vibrators are sold through non age-restricted premises, no one will bother getting licenses or permits for age restriction. If age-restricted premises cease to exist and vibrators suffer a major campaign from morals groups, we could be left with no with no age-restricted shops as a fall back position.
- 5) If vibrators are allowed to move out into sensuality shops it will not be long before Coles and Woollies start stocking them again and then they will take over other areas of adult product as well.

Arguments in support of the sale of vibrators from mainstream retail outlets are that:

- 1) They make adult products more readily available to the wider public and therefore create a bigger total market for adult products in general.
- 2) There are two different sorts of vibrators. One is packaged as a discreet pharmacy product for people who would never go into an adult shop. The

other is packaged and promoted to catch the eye and relies on sexual function to sell itself. The former is no threat to adult shops and does.

- 3) Freedom of choice. People should be able to sell what they like, where they like and wherever they can get a go.
- 4) Some Eros wholesalers make good profits from selling into mainstream outlets.

Summing Up

Eros has received a fair bit of correspondence and comment from wholesalers and retailers over the past couple of months. A selection is listed below:

"We were very interested to read an article in the local paper about sex toys in chemists across Queensland. How is this allowed to happen? Was there not huge public backlash last year when supermarkets wanted to sell bullets/vibes in the Health & Wellbeing section? Adult stores as you know, go to a lot of expense, time and money to ensure the adult industry remains an 'adult Industry' that is not accessible to children, and yet some wholesalers are destroying this by enabling all ages to access to these products in chemists(family friendly shops)."

- Eros Qld retail member.

"I'm boycotting wholesalers who sell adult products into non-adult premises. I've had enough of this. Soon we won't have an industry left."

- Eros retail member.

"I agree that traditional adult products like vibrators, DVDs and novelties should not be sold in non age restricted premises. I'd also like to see tobacco, vaporisers and even medical cannabis being sold in adult shops."

- Eros Vic retail member.

"I think that realistic vibrators should be sold only in adult shops but I think those innocuous slimline vibrators are OK in chemists etc. I can't understand how those Honey Birdette shops make a profit after standing outside one of their shops the other day and checked out the traffic."

-Eros Vic retail member.

"Our wholesale business supplies a vibrator into pharmacies but in a very discrete way. No images of the products can be seen unless you look at the back of the product or take the product out. The packaging is very subtle and was created overseas for middle- aged women who would not go into an adult store. Due to its mainstream packaging, if this range were available in adult stores it would be lost in the more obvious adult branding. The limited range and simplicity of this product for the key demographic of older women will not have a major impact on the local adult store which stocks a far greater range."

- Eros Qld wholesaler